

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

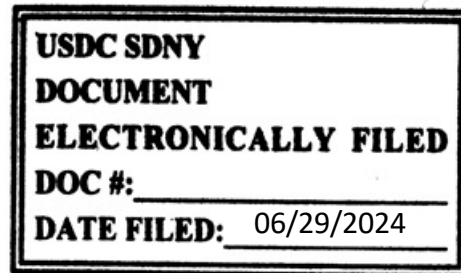
Carlos Alvarez Chicas, et al.,

Plaintiffs,

-against-

Kelco Construction, Inc., et al.,

Defendants.



1:21-cv-09014 (JGLC) (SDA)

ORDER

**STEWART D. AARON, United States Magistrate Judge:**

WHEREAS, after the Court issued an Opinion and Order granting Attorney Moser's request to withdraw as counsel for Plaintiffs (upon notice to Plaintiffs, having given them an opportunity to be heard), the Court stated in an Order served upon the Plaintiffs that the Plaintiffs proceeding *pro se* were "required to comply with all Court Orders and deadlines[]" and that "[f]ailure to do so may result in the imposition of sanctions, up to and including an Order that this case be dismissed for failure to prosecute[]" (4/26/24 Op. & Order, ECF No. 194, at 6; 5/2/24 Cert. of Service, ECF No. 195); and

WHEREAS, a telephone conference was held on May 29, 2024, to discuss the status of the case, at which Plaintiffs Misael Alexander Martinez Castro ("Martinez Castro"), Mateo Umana ("Umana") and Angel Martinez ("Martinez") did not appear (5/29/24 Minute Entry); and

WHEREAS, on May 30, 2024, the Court issued an Order to Show Cause and scheduled a telephone conference for June 28, 2024, where Martinez Castro, Umana, and Martinez were required to show cause why they should not be dismissed from this action for failure to prosecute and that failure to do so "may result in the undersigned issuing a Report and Recommendation

to District Judge Clarke recommending dismissal of that Plaintiff from this action for failure to prosecute, or alternatively, District Judge Clarke issuing an Order of Dismissal as to such Plaintiff” (5/30/24 Order to Show Cause, ECF No. 200, at 3); and

WHEREAS, a telephone conference regarding the Order to Show Cause was held on June 28, 2024 (6/28/24 Minute Entry); and

WHEREAS, Umana and counsel for Defendants appeared for the telephone conference; and

WHEREAS, Umana stated during the conference that he wished to abandon his claims in this case; and

WHEREAS, Martinez Castro and Martinez (the “Non-Appearing Plaintiffs”) did not appear for the conference; and

WHEREAS, the undersigned’s Chambers called each of the Non-Appearing Plaintiffs at their phone numbers listed on the ECF docket, and left a voicemail message with the dial-in information for the conference for each of the Non-Appearing Plaintiffs; and

WHEREAS, the conference line remained open for at least 50 minutes, during which none of the Non-Appearing Plaintiffs joined the conference or otherwise indicated an intention to join the conference; and

WHEREAS, as of the date of this Order, the Non-Appearing Plaintiffs have not made any separate showing of an intent to prosecute their claims in this action; and

WHEREAS, counsel for Defendants indicated during the conference an intention to file a motion seeking an Order of Dismissal pursuant to Rule 41 of the Federal Rules of Civil Procedure,

and in the alternative, Rule 16 of the Federal Rules of Civil Procedure, with respect to the Non-Appearing Plaintiffs.

NOW, THEREFORE, it is hereby **ORDERED**, as follows:

1. No later than July 11, 2024, counsel for Defendants shall file their anticipated motion, pursuant to Local Civil Rule 6.1(b), addressed to Judge Clarke seeking an Order of Dismissal with respect to the Non-Appearing Plaintiffs, *i.e.*, Martinez Castro and Martinez.

2. Counsel for Defendants shall translate a copy of this Order (or cause it to be translated by a certified translation service), serve both this Order and its translated version on Mr. Umana, Mr. Martinez Castro and Mr. Martinez, and file proof of service to the ECF docket no later than July 3, 2024.

**SO ORDERED.**

Dated: New York, New York  
June 29, 2024

A handwritten signature in black ink, reading "Stewart D. Aaron", is positioned above a horizontal line.

STEWART D. AARON  
United States Magistrate Judge